

REMARKS

The Office Action dated July 2, 2004 has been read and carefully considered and the present amendment submitted to clarify the claim language to better define the invention.

In that Office Action, claims 1-5 and 7-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Dukhan *et al*, U.S. Patent 4,750,474. Claims 1-5 and 7-20 were further rejected under that same section as being anticipated by Goldberg *et al*, U.S. Patent 6,022,310. Claim 6 was objected to as being dependent upon a rejected claim but was indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly all of the independent claims, that is, claims 1, 4, 11 and 17, have been amended herein to better define one of the features of the present invention and which distinguishes that invention over the disclosures of the cited references.

Taking, therefore, the Dukhan *et al* reference, the infant apparatus of that reference has two cylindrical segments that cooperate together to form an upper section and, therefore, of necessity, must have a rotational axis for those segments located generally midway between two sides of the cradle, and there certainly is no disclosure of a pivotable axis located proximate a side of the infant platform to allow a canopy to pivot about that axis.

As such, one of the fundamental differences between the construction of the present canopy is that it pivots about an axis located proximate a side of the infant platform as opposed to the Dukhan *et al* reference where the upper section is comprised of two segments that rotate about a generally centrally located axis. Since Dukhan *et al* does not have a pivoting canopy about an axis located at one of the ends, there really is no need to have some opening to allow the canopy to pivot about that axis and be capable of pivoting past an obstruction located above the infant platform in order to be placed in its open position.

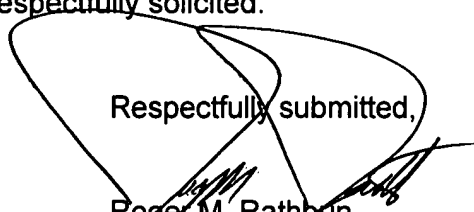
Thus, as now claimed, it is submitted that the present claims are patentably distinct over the Dukhan *et al* reference.

Next, with respect to the Goldberg *et al* reference, again there is no canopy that is pivotable about an axis that is located at or proximate an end of the infant platform. In Goldberg *et al*, the canopy is raised and lowered vertically for access to an infant. True, there is a pivoting function in Goldberg *et al* that allows the canopy to be pivoted at one of its ends, however, the purpose of such pivoting is for canopy alignment during the manufacture of the apparatus, and, once that alignment has been attained, the canopy is locked into position and no further pivoting is contemplated. Certainly, the canopy of Goldberg *et al* does not pivot between an opened and closed position with respect to an infant and there simply is no opening in the canopy of Goldberg *et al* that allows it to be pivoted so as to clear an obstruction through use of that opening.

It is, therefore, submitted that the claims in the present application are in allowable form and an allowance of the present application is respectfully solicited.

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Respectfully submitted,


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